THE HON'BLE MRS JUSTICE T.MEENA KUMARI
&
THE HON'BLE MR JUSTICE G.CHANDRAIAH

WRIT PETITION NO.12223 OF 2007

Dated: 14.06.2007

Between:

The Commissioner of Commercial Taxes,
A.P., Hyderabad and others.

..Petitioners

And

K. Digamber,

.. Respondent.

THE HON'BLE SMT. JUSTICE T.MEENA KUMARI
&
THE HON'BLE SRI JUSTICE G.CHANDRAIAH

WRIT PETITION NO.12223 OF 2007

ORDER: (Per Hon'ble Smt. Justice T. Meena Kumari)

This is a writ petition filed by the petitioners challenging the order, dated 31.1.2007 passed by the A.P. Administrative Tribunal in O.A.No.3962 of 2006.

The respondent herein is the applicant before the Tribunal. He filed the above O.A. seeking to declare the proceedings in Rc.No.Vig.IV/272/2005, dated 27.4.2006 issued by the 2nd petitioner herein as illegal and to set aside the same.

The tribunal having observed that even though the show cause notice was suspended, the 2nd respondent-petitioner herein passed the final order imposing punishment of stoppage of two increments with cumulative effect on 30.6.2006 and therefore, the action of the 2nd respondent-petitioner is contrary to the interim orders passed by the tribunal and the same is liable to be dismissed, allowed the O.A. setting aside the final order. The tribunal further directed that the said order does not preclude to pass appropriate orders in exercise of the revisional powers in accordance with law. Having aggrieved by the same, the authorities preferred the present writ petition.

It is contended by the learned Government Pleader for Services II that the Commissioner of Commercial Taxes found that the inquiry officer and the 3rd petitioner did not take all material facts on record into consideration and hence, the Special Commissioner of Commercial Taxes initiated action to revise the order of the 3rd respondent and revised the order and passed the orders dated

30.6.2006. It is further contended that in the above O.A., interim orders were passed on 6.7.2006 and the same were received in the office on 12.7.2006, but the order imposing punishment to the applicant was issued on 30.6.2006 i.e., even prior to the interim order and therefore, the finding of the tribunal in this regard is not sustainable and hence, the order of the tribunal is liable to be set aside.

We have perused the entire material available on record as well as the order impugned.

Before going into the merits of the case, it is pertinent to note that the provisions of C.C.A. Rules make it clear that no proceeding for revision shall be commenced before the expiry of limitation for preferring an appeal against the orders of the Disciplinary authority and that the limitation for preferring an appeal is three months.

Now, coming to the facts of the case on hand, admittedly, the Disciplinary authority has passed the order on 6.2.2006 dropping further action against the applicant. In case of preferring an appeal, the limitation expires by 6.5.2006. But, in the meanwhile, the 2nd respondent invoking the provisions of Rule 40 of C.C.A. Rules, which deal with the Revision, issued the show cause notice on 27.4.2006. In spite of suspension of the said show cause notice by the tribunal during the pendency of the main O.A.3962 of 2006, the 2nd respondent has passed the order impugned on 30.6.2006. Therefore, the action of the 2nd respondent in issuing the show cause notice even before the expiry of the appeal time, amounts to contravention of the provisions of Rule 40 of the C.C.A Rules and apart from that, the said order becomes nonentity in the light of the interim order passed by the tribunal. In this back ground of the matter, We feel that the tribunal is justified in passing the order impugned. We see no merits in this writ petition and the same is liable to be dismissed.

In the result, this writ petition is dismissed. No costs.

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Justice T. Meena Kumari

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Justice G.Chandraiah

Date: 14.06.2007
Nn/gurc

THE HON'BLE SMT. JUSTICE T.MEENA KUMARI
&
THE HON'BLE SRI JUSTICE G.CHANDRAIAH

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WRIT PETITION NO.12223 OF 2007

(Order delivered by the Hon'ble Smt. Justice T. Meena Kumari)

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Dated: 14.06.2007